

1 NORA ROUSSO, Bar No. 150275
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2 ROUSSO & JACKEL, INC.
116 E. Campbell Ave., Suite 1
3 Campbell, California 95008

4 Telephone: (408) 378-3200
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5 Attorney for Defendants
6 NADER SARNEVESHT, doing business as
PACIFICA CONSTRUCTION and BOBBY SARNEVESHT
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8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 ADEL PORTILLO and EDIEL LOPEZ,

11 Plaintiffs,

12 vs.

13 NADER SARNEVESHT, dba PACIFICA
14 CONSTRUCTION, BOBBY
15 SARNEVESHT and DOES 1 through 10,

Defendants.
16 _____/

Case No. C08-00190 JW

DECLARATION OF NORA ROUSSO IN
SUPPORT OF DEFENDANTS' SEPARATE
CASE MANAGEMENT STATEMENT

CMC: 9-15-08
Time: 10:00 a.m.
Judge: Hon. James Ware

17
18 I, Nora Rousso, declare:

19 1. I am an attorney at law licensed to practice in the State of California and authorized
20 to appear in the District Court for the Northern District of California. The facts stated in this
21 declaration are my personal knowledge. If called as a witness I could testify to them.

22 2. The complaint was served around June 25, 2008. Shortly thereafter, I contacted
23 counsel for plaintiff to discuss the case. We agreed that the answer would be due on or before July
24 30, 2008; it was filed on July 29, 2008. Attached as Exhibit A is a letter to plaintiffs' counsel dated
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26
27 PORTILLO v. SARNEVESHT
28 DECLARATION OF NORA ROUSSO

1 July 17, 2008 confirming our conversation. At that time, I noted that he had failed to return several
2 phone calls.

3 3. When the complaint was served I noticed that the date initially set by the court for
4 the case management conference had already passed. A subsequent review of the court file revealed
5 that the complaint was first filed in January 2008 but not served until after the court had issued an
6 Order to Show Cause as to why the case should not be dismissed for failure to serve. A copy of the
7 Court's order is attached as Exhibit B of this declaration.

8 4. I have never heard from counsel for plaintiff again, although I made several
9 more attempts to reach him by telephone. Attached as Exhibit C of this declaration is a letter dated
10 August 28, 2008 wherein I noted that none of my phone calls had been returned and that the deadline
11 for filing the Joint Case Management Conference Statement was approaching. I received no
12 response to this letter. Having waited as long as reasonable under the circumstances, I prepared a
13 Separate Case Management Conference Statement on behalf of defendants.

14 5. Plaintiffs'(or their attorney's) behavior is inconsistent with that of a party who
15 seriously intends to prosecute a claim for damages in a court of law. With one exception, none of
16 the calls placed to counsel for plaintiffs was returned and he never has responded to my
17 correspondence. Therefore, I respectfully submit that this case should be dismissed as specified in
18 the Court's order of June 12, 2008.

19 6. I have reviewed my time records for time spent defending this matter. My regular
20 hourly billing rate is \$300.00 per hour. According to my records, my partner and I have spent 10.8
21 hours reviewing the pleadings, talking to Mr. Wang, drafting correspondence, talking to my clients,
22 talking to witnesses, reviewing the applicable court rules, and drafting pleadings. Based on
23 plaintiffs' failure to comply with the court's order regarding the case management conference and
24 plaintiffs' complete failure to communicate with me in this case, it is apparent that this case was
25 imprudently or, more likely, frivolously filed. I therefore respectfully request an award of sanctions
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1 against plaintiffs and their attorney in the amount of \$3,240.00.

2 I declare under penalty of perjury under the laws of the State of California that the
3 foregoing is true and correct and that this declaration was executed on September ____, 2008.

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6 NORA ROUSSO
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28 DECLARATION OF NORA ROUSSO

United States District Court
Northern District of California
Portillo et al. v. Nader Sarnevesht et al.
Case No. C08-00190 JW

DECLARATION OF SERVICE BY MAIL

I am over the age of eighteen years, and am not a party to the above-entitled action. My business address is 116 E. Campbell Ave, Suite 1, Campbell, California 95008. On this date, in the ordinary course of business, I served the following document on the parties in this action:

**DEFENDANTS' SEPARATE CASE MANAGEMENT CONFERENCE STATEMENT;
DECLARATION OF NORA ROUSSO**

by depositing true copies thereof enclosed in a sealed envelope, with postage fully prepaid thereon, with the United States Postal service in Campbell, California, addressed as follows:

**Adam Wang
Law Offices of Adam Wang
12 So. First Street, Suite 613
San Jose, California 95113**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 3, 2008, at Campbell, California.

NORA ROUSSO

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